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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,064	11/30/1999	ROBERT NORMAN HURST, JR.	RCA-89.651	8555

7590 05/19/2005
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EXAMINER

HSIA, SHERRIE Y

ART UNIT PAPER NUMBER

2614

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/451,064

Applicant(s)

HURST, JR., ROBERT NORMAN

Examiner

Sherrie Hsia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8,9,11-13,16,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2,3,7,14,15 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/6/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

2. Claims 8, 9, 11, 12, 19 and 20 are rejected again under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

“user channel viewing history characteristics” as claimed in claims 8, 11 and 19 and “said viewing history characteristics ...use data” as claimed in claims 9, 12 and 20 are not described in the specification. In the specification, page7 lines 3-30, it describes that the prediction unit predicts a next program channel to be selected by a user based on one or more of (a) user favorite channel and program data , (b) user channel navigation patterns and command selection patterns and (c) sensory data. The prediction is only based on these three. There is no fourth one as claimed in the claims. Also, it is never described the viewing history characteristics comprise at least one of (a) channel frequency of use data and (b) channel last time of use data. Therefore, applicant must clarify these matters.

Claim Rejections - 35 USC § 102

3. Claims 1, 4-6, 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/04590 cited by applicant.

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As to claims 1 and 13, WO 97/04590 discloses the claimed subject matter, the claimed plurality of buffers is met by the buffers 21-23 (Fig. 2, page 6 lines 6-15), the claimed processor for initiating switching to decode a program is met by the control unit 31 (Fig. 2, page 6 lines 16-30) and the claimed decoder for decoding encoded video data received from one of the plurality of buffers is met by the decoder 40 (Fig. 2, page 6 lines 23-30).

As to claim 4, the claimed feature is disclosed by WO 97/04590 (Fig. 2).

As to claims 5 and 16, the claimed plurality tuners are inherently included in WO 97/04590 since it shows the receivers (Fig. 1, page 7 lines 29-34).

As to claims 6 and 17, the claimed decoded data in a different image sequence is inherently included in WO 97/04590 (Fig. 2).

Allowable Subject Matter

4. Claims 2, 3, 7, 14, 15 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 10 is allowable over the prior art.

Conclusion

6. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 12/6/04 prompted the new ground(s) of rejection presented

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in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherrie Hsia whose telephone number is (571) 272-7347.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this final action should be mailed to:

Box AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Or faxed to:

(703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is (703) 308-HELP.



**Sherrie Hsia
Primary Examiner
Art Unit 2614**

SH

May 16, 2005